

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 16,771
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Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Office of Child Support Enforcement refusing to divulge the address of his child's mother.

FINDINGS OF FACT

1. Some years ago, the petitioner separated from L.F., to whom he was never married. L.F. obtained custody of their daughter. The petitioner was granted visitation by a court which he has been unable to exercise for the last two years because he does not know where L.F. and the child are. The petitioner was last in family court in 1997 where an order for an arrearage of \$2,530.70 was entered. The petitioner claims, alternately, that he has paid the arrearage or that he will not pay it until he can see his daughter.

2. The petitioner filed a request for an administrative review with OCSE which was conducted in September of 2000. During that review, the petitioner requested that OCSE give him the address of L.F. At that time he did not dispute that

he owed the arrearage debt to her. OCSE refused to give him her address citing confidentiality requirements.

3. The petitioner appealed that decision and claimed both that he had paid the entire debt and that OCSE was wrong not to give him L.F.'s address.

4. Since the petitioner did not indicate that he was claiming payment of the arrearage on his appeal form as an issue for hearing, OCSE was not prepared on that issue. The petitioner was advised to file a separate appeal specifically covering that issue and to take it through the administrative procedure prior to coming to the Board. OCSE continued to take the position that it was bound by confidentiality requirements with regard to the address of L.F. It advised the petitioner that it would only give that information to the court if it was requested to do so. The petitioner says that he has no money to hire a lawyer and that prior pleadings he had filed with the court were rejected because he does not know L.F.'s address. He has apparently not yet asked any court to request that OCSE divulge L.F.'s whereabouts.

ORDER

The decision of the Office of Child Support Enforcement with regard to divulging the address of his child's mother is

affirmed. The petitioner's challenge to the Department's contention that he owes a support arrearage is remanded for administrative review pursuant to OCSE's procedures.

REASONS

State statute requires that "information furnished the office of child support shall be made available only to the person requesting services or to the person's attorney, the person to whom the information relates and the family court." 33 V.S.A. § 4105(c). All other use is prohibited and any violation is subject to a fine and restraining order. Id. Another statute makes this provision specifically applicable to information concerning the "whereabouts of parents or persons" which has been gathered in a central registry in order to locate parents. 33 V.S.A. § 113(b).

The petitioner does not meet the definition of persons to whom information regarding the whereabouts of a parent may be disclosed. He is not a person using the services of OCSE and the information does not relate to him but rather to his ex-wife. As such, OCSE is correct that it is not allowed to give information to the petitioner regarding the whereabouts of L.F.

This ruling does not mean that the petitioner is without recourse in his attempts to enforce his visitation rights. The above statute does allow locator information to be divulged to the family court. Title IV-D of the Social Security Act, the federal agency that provides funding to the Vermont OCSE, also makes it clear that OCSE may divulge information in parent locator services to "any court" or "any agent of such court" which has "jurisdiction to make or enforce" a child "visitation determination." 42 U.S.C. § 663(d)(2)(A) and (B). Under protocols adopted by the federal OCSE, a noncustodial parent may petitioner a court with jurisdiction over the visitation issue to submit the request to OCSE on his behalf. See Action Transmittal 99-09, June 16, 1999, page 13, number 3.

The petitioner should be aware that under the law he may petition the family court which issued the visitation order to obtain information on the whereabouts of L.F. from OCSE for the purpose of enforcing his rights. He is encouraged to contact an attorney for further information and assistance in enforcing his rights. If he feels he is unable to afford the services of an attorney, he may certainly petition the family court himself to obtain the relief he seeks.

The petitioner's claim that he has satisfied all arrearages is not ripe for review before the Board. The statutory scheme governing OCSE requires that all grievances be reviewed first through an administrative process. The petitioner has not yet used that process for this claim and must exhaust this remedy before appearing before this Board. See 33 V.S.A. § 4108.

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